

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

October 1, 2019
10:00 a.m. Central Time
Nebraska State Office Building – Lower Level B
301 Centennial Mall South, Lincoln, Nebraska

The purpose of this hearing is to receive comments on the adoption of amendments to and repeal of the following regulations:

The following regulation is proposed for AMENDMENT:

Title 172 NAC 34 – *Sanitation and Safety Relating to Nail Technology Services.*

The proposed regulations will combine the relevant portions of Chapter 34 and 172 NAC 43 into one chapter. These regulations apply to cosmetology salons and schools, esthetic salons and schools, and nail technology salons and schools. The proposed changes will: include disinfection processes for footbaths and foot spas; expand the list of tools or activities not allowed in a salon or school; and prohibit fish pedicures.

The following regulation is proposed for REPEAL in its entirety. Relevant portions of the current Chapter 43 are being included in the proposed amendments to Chapter 34.

Title 172 NAC 43 – *Sanitation and Safety Relating to Cosmetology and Esthetics Services.*

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may attend the hearing and provide verbal or written comments or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or dhhs.regulations@nebraska.gov, respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals with hearing impairments may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 172	Prepared by: Kris Chiles
Chapter: 34	Date prepared: 5/20/2019
Subject: Sanitation and Safety Relating to Cosmetology, Esthetic, and Nail Technology Services	Telephone: 402-471-0185

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact: N/A, these regulations relate to sanitation and safety.

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 172 ————— PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 34 ————— SANITATION AND SAFETY RELATING TO NAIL TECHNOLOGY SERVICES

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TITLE 172 ————— PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 34 ————— SANITATION AND SAFETY RELATING TO NAIL TECHNOLOGY SERVICES

~~34-001 Scope and Authority:~~ These regulations apply to the safe practice of nail technology by cosmetologists, nail technicians, and students within cosmetology and nail technology establishments as defined in Neb. Rev. Stat. §§ 71-340 through 71-3,238. In order to be properly credentialed with the Department of Health and Human Services Regulation and Licensure, the owners of establishments, cosmetologists, nail technicians, and students must comply with these regulations.

34-002 Definitions

~~Closed/covered receptacle, container, bottles, and/or drawer~~ means fitting tightly with a lid, door, or shutting of a drawer and may have vents.

~~Conspicuous place~~ means reception area, clinical area or any area where visible and accessible to the public.

~~Disinfectant~~ means an EPA-registered hospital grade disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal, used in accordance with the manufacturer's instructions for mixing and immersion.

~~Disinfection~~ means cleansing to remove agents of infection, disease or infestation by insects or vermin and soil, dust, or foreign material.

~~Dry use implements~~ means a tool that melts when wet, for example wood or cardboard.

~~Enclosed container, drawer, and/or cabinet~~ means fitting tightly with a lid, door, or shutting of a drawer and does not have vents.

~~Equipment~~ means those items needed to operate an establishment which are usually considered stationary, for example, waiting chairs, nail technology client chairs, cabinets, sinks, nail technology tables and stools.

~~Establishment~~ means a cosmetology establishment that includes a cosmetology salon, apprentice salon, or school of cosmetology and any nail technology establishment that includes a nail technology salon or nail technology school.

~~EPA~~ means the United States Environmental Protection Agency.

~~Implement~~ means nail file, nail nipper, cuticle pusher, nail clipper, artificial nail tip cutter, nail drill bit, or other similar items.

~~MMA~~ means methyl methacrylate monomers.

~~Nail technology student~~ means a person engaged in the study of the practices of nail technology under the supervision of a nail technology instructor in a nail technology school.

~~Station means a nail table, client chair, and licensee chair.~~

~~Student means a person registered under the Nebraska Cosmetology Act to engage in the study of any or all of the practices of cosmetology or esthetics under the supervision of an instructor or esthetics instructor in a school of cosmetology or school of esthetics.~~

~~Supplies/materials means cotton balls/cotton pads, manicure brushes, product application brushes, orangewood sticks, or other similar items.~~

~~Washable implement means a tool that is sanitizable or disinfectable, such as one made of mylar, plastic, metal, or cloth.~~

~~Wet sanitizer means a closed receptacle which holds the disinfectant solution.~~

~~34-003 Documents Posted: The owner must ensure that the following documents are posted in each establishment, in a conspicuous place:~~

- ~~1. A copy of the regulations governing sanitation and safety, for the information and guidance of all persons employed or studying therein and for the general public;~~
- ~~2. The most recent rating sheet, for the information of the general public, students, and employees; and~~
- ~~3. The most current licensure renewal card for each person practicing within the establishment, for public viewing (photocopies are not acceptable).~~

~~34-004 Personal Cleanliness: The owner must ensure that the following procedures for personal cleanliness are observed in the establishment.~~

~~34-004.01 Attire: Every cosmetologist, nail technician, and student, while engaged in serving students or the public must be clean in person and in attire, and free from any communicable disease, which may be communicated in the usual course of practice.~~

~~34-004.02 Licensee Hand Cleanliness: Every cosmetologist, nail technician, and student must:~~

- ~~1. Wash his/her hands thoroughly with liquid soap and water or an instant hand sanitizer, before serving each client;~~
- ~~2. Change gloves upon contamination; and~~
- ~~3. Use gloves that are free of tears or holes.~~

~~34-004.03 Client Hand Cleanliness: Every client must thoroughly wash his/her hands with liquid soap and water or an instant hand sanitizer at the establishment, before receiving nail technology services.~~

~~34-005 Physical Structure: The owner must ensure that the establishment is well lighted, well ventilated and kept in a clean, orderly, sanitary condition at all times.~~

~~34-006 Ventilation:~~ The owner must ensure that a consistent fresh air supply is provided to the establishment. S/he may do so by using one or more of the following:

- ~~1. A ventilation system which is in good, working condition; or~~
- ~~2. A furnace or air conditioner in which:
 - ~~a. The air distribution system filters are cleaned or replaced annually or more often if needed to avoid restriction of airflow; and~~
 - ~~b. The furnace fan setting is placed on "continuous" or "on" setting at all times the salon is occupied to ensure fresh air is coming into the salon;~~~~
- ~~3. Open windows/doors and a fan to provide and circulate fresh outside air; or~~
- ~~4. Portable fans and ceiling fans, which are clean and have no worn or bare wiring and are operated in a safe manner.~~

34-007 Water

~~34.007.01~~ The owner must ensure that the establishment has a supply of hot and cold running water in sufficient quantities to conduct the establishment in a sanitary manner, specifically that:

- ~~1. In cities or villages in which an authorized public water supply is available, the establishment must be connected to the public water supply; and~~
- ~~2. Hot water tanks and receptacles must have a capacity of ten gallons or more.~~

~~34-007.02~~ The owner must ensure that wastewater is disposed of through a system that carries it away from buildings and is either:

- ~~1. A public sewer connection; or~~
- ~~2. A private disposal system that complies with state law, city or village ordinances, and local health authority requirements.~~

34-008 Safety: The owner must maintain the establishment in a safe condition. S/he must ensure that:

- ~~1. Floors, floor coverings, walls, woodwork, ceilings, furniture, fixtures and equipment are clean and in good repair;~~
- ~~2. Floors are free of unsafe objects and slippery or uneven surfaces;~~
- ~~3. Doors, stairways, passageways, aisles or other means of exit provide safe and adequate access;~~
- ~~4. Electrical appliances or apparatus are clean and have no worn or bare wiring to avoid fires, shocks, and electrocution; and~~
- ~~5. Water or product spills on the floor are removed immediately and floor dried to avoid falls.~~

~~34-009 Restroom Facilities: The owner must keep restrooms clean, orderly, and sanitary at all times.~~

~~34-009.01 The owner must ensure that:~~

- ~~1. Chemicals are not stored in the restroom, except in a locked cabinet;~~
- ~~2. The following are available at all times:~~
 - ~~a. Suitable holders for toilet paper;~~
 - ~~b. An adequate supply of toilet paper;~~
 - ~~c. A clean waste receptacle;~~
 - ~~d. Hot and cold running water;~~
 - ~~e. Liquid soap;~~
 - ~~f. Single-use disposable towels; and~~
 - ~~g. Appropriate, clean towel holders.~~

~~34-010 Hand Washing Facilities: The owner must ensure that hand washing facilities are located within the establishment (except those licensed on or before January 31, 2000). Hand washing facilities must be clean and safe and have:~~

- ~~1. Hot and cold running water;~~
- ~~2. Clean cloth or disposable towels;~~
- ~~3. Suitable, clean towel holders;~~
- ~~4. Liquid soap; and~~
- ~~5. A clean waste receptacle.~~

~~34-011 Laundry Facilities: If the establishment has a laundry facility, the owner must ensure that:~~

- ~~1. It is clean, including the washer and dryer;~~
- ~~2. It has a closed receptacle in which to store soiled towels; and~~
- ~~3. The equipment is used for the establishment laundry only, not personal items.~~

~~34-012 Nail Technology Tables and Chairs~~

~~34-012.01 The owner must ensure that all tables and chairs are in good repair and in a sanitary condition at all times.~~

~~34-012.02 Cosmetologists, nail technicians, and students must disinfect table tops immediately following each client.~~

~~34-013 Storage: The owner must ensure that storage within the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.~~

- ~~1. Flammable and combustible chemicals are stored away from potential sources of ignition such as an open flame or an electrical device;~~
- ~~2. All nail care chemicals are stored in closed bottles or containers;~~

3. ~~No nail care chemicals are stored:~~
 - a. ~~Where food is kept; or~~
 - b. ~~In the restroom, unless in a locked cabinet;~~
4. ~~Storage units:~~
 - a. ~~Cabinets, drawers, containers used for storage of implements and towels are clean;~~
 - b. ~~Clean linen is stored in an enclosed, dust-proof cabinet or container;~~
 - c. ~~Implements which have been used on a client are not placed in a container with clean implements;~~
5. ~~Supplies:~~
 - a. ~~Unused supplies, except product application brushes, are stored in a clean, closed container or drawer;~~
 - b. ~~Used/soiled disposable supplies are discarded immediately in a clean, closed waste receptacle;~~
6. ~~Implement Storage:~~
 - a. ~~Implements that have been used on a client or soiled in any manner are placed in a properly labeled covered receptacle until disinfected;~~
 - b. ~~Sanitized implements are stored in a clean closed container or drawer until used;~~
7. ~~Individual Client Containers: Individual containers made of paper, cardboard, or plastic may be used to store implements or supplies used only by one client.~~
 - a. ~~The container must identify the client by name; and~~
 - b. ~~The individual client's files and orangewood sticks must be sanitized using the method outlined in 172 NAC 34-019.02 before storage.~~

~~34-014 Material Safety Data Sheet (MSDS): The owner must ensure that an MSDS for every product pertaining to nail technology client services is accessible at all times, to all employees.~~

~~34-015 Towels: The owner must ensure that the use of towels in the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.~~

~~34-015.01 Used/Soiled Towel Storage:~~

1. ~~Cloth towels are deposited in a closed receptacle after use;~~
2. ~~Used/soiled cloth towels are not used again until properly laundered and sanitized;~~
3. ~~Disposable towels are discarded in a covered waste receptacle immediately following each nail technology service;~~

~~34-015.02 Laundry: Cloth towels are laundered either:~~

- ~~1. By regular commercial laundering; or~~
- ~~2. By a noncommercial laundering process which includes immersion in water at 140 degrees Fahrenheit for not less than fifteen minutes during the washing or rinsing operation;~~

~~34-015.03 Clean Towel Storage: All clean towels are stored in a clean, enclosed, dust-proof cabinet or container until used.~~

~~34-016 Products: The owner must ensure that the use of products in the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.~~

- ~~1. No product containing MMA is used in the establishment;~~
- ~~2. All liquids, creams, and other products are kept in clean, closed containers;~~
- ~~3. Original product bottles and containers have an original manufacturer label that discloses their contents;~~
- ~~4. When only a portion of the product, except for nail polish, is to be used on a client, the product is removed from the container by a spatula, scoop, spoon, or dropper so that the remaining product is not contaminated;~~
- ~~5. If a product is poured into another container, such as a shaker, dispenser pump container, or spray container, the container is labeled to identify the product. Dappen dishes do not need labeling; and~~
- ~~6. Oils, lotions, liquids, creams, and similar products, are dispensed by pump, squirt bottle, or dropper.~~

~~34-017 Supplies and Materials: The owner must ensure that the use of supplies and materials in the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.~~

- ~~1. Washable and disinfectable hand or nail dusters, such as plastic or nylon, may be used;~~
- ~~2. No non-washable or non-disinfectable hand or nail dusters, such as sable or fabric, are used;~~
- ~~3. No chamois buffers are used;~~
- ~~4. Manicure brushes must be disinfected after each use;~~
- ~~5. Client hand supports have plastic or vinyl coverings;~~
- ~~6. Supplies and implements which come in direct contact with a client and cannot be disinfected, such as cotton pads, cotton balls, orangewood sticks, "Q-tips", and other similar items, are disposed of in a covered waste receptacle, with a plastic liner, immediately after use;~~
- ~~7. A wet sanitizer(s) must be available for sanitizing implements;~~
- ~~8. A covered waste receptacle, with a plastic liner, is located at each station; and~~
- ~~9. Product application brushes are clean.~~

~~34-018 Implements and Nail Drill Bits: The owner must ensure that the use of implements and nail drill bits in the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.~~

~~34-018.01 Dry-Use Implements~~

~~34-018.01A Dry use implements and nail drill disposable bands are discarded in a closed waste receptacle immediately after use.~~

~~34-018.01B Exception: Reuse of a File on the Same Client: If the file is to be reused on the same client, the cosmetologist, nail technician, or student:~~

- ~~1. May keep the file in a container labeled with the client's name; and~~
- ~~2. If the file is kept, must disinfect the file as described in 172 NAC 34-019.02.~~

~~34-018.02 Washable files and nail drill bits are disinfected as described in 172 NAC 34-019.01.~~

~~34-018.03 No coarse nail drill bands are used.~~

~~34-019 Methods of Disinfection: The owner must ensure that all implements are disinfected before use on a client, by using the following procedures. Cosmetologists, nail technicians, and students must comply with the following requirements.~~

~~34-019.01 Immersion or Spray Implement Disinfection~~

- ~~1. Remove foreign matter;~~
- ~~2. Wash hands with liquid soap and water or an instant hand sanitizer;~~
- ~~3. Select and use either immersion or spray method:
 - ~~a. Immersion method: Place the implement in an EPA-registered hospital grade disinfectant:
 - ~~(1) The disinfectant must be proven effective against HIV-1, Hepatitis B, or Tuberculoicidal;~~
 - ~~(2) The disinfectant solution must be deep enough to cover implements totally; and~~
 - ~~(3) The implements must stay in the disinfectant solution for ten minutes or more;~~~~
 - ~~b. Spray method: Spray the implement until it is totally saturated with an EPA-registered disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculoicidal;~~~~
- ~~4. Before removing the sanitized implement(s), wash hands with liquid soap and water or an instant hand sanitizer;~~
- ~~5. Air dry on a sanitary surface, dry with a clean sanitized towel, or dry with an electric air sanitizer; and~~
- ~~6. Store in a clean enclosed cabinet or covered container reserved for clean implements.~~

~~34-019.02 Disinfection of Files Used Repeatedly on the Same Client:~~

- ~~1. Remove foreign matter;~~
- ~~2. Spray with disinfectant solution;~~
- ~~3. Air dry on a sanitary surface or dry with a clean sanitized towel;~~
- ~~4. Store in individual clean client containers; and~~
- ~~5. Re-use files no more than five times.~~

~~34-019.03 Disinfection of Metal Implements: All metal implements must be immersed in a disinfectant following the procedures in 172 NAC 34-019.01 except that artificial nail tip cutters may be sprayed with disinfectant.~~

~~34-020 Disinfectant Solution Storage and Cleanliness: The owner must ensure that the use of disinfectant solution in the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.~~

- ~~1. The disinfectant solution remains covered at all times;~~
- ~~2. The disinfectant solution is changed whenever visibly cloudy or dirty but no less often than once a week; and~~
- ~~3. Follow manufacturer's directions for mixing.~~

~~34-021 Disinfecting Electrical Implements: The owner must ensure that the use and sanitation of electrical implements such as, drills, airbrush machines, polish dryers, gel lights, footbaths/footspas, paraffin wax machines meets the following specifications. Cosmetologist, nail technicians, and students must comply with the following requirements.~~

~~34-021.01 Electrical implements have no bare or worn wires.~~

~~34-021.02 Electrical implements generally are disinfected by the following method:~~

- ~~1. Remove all foreign matter;~~
- ~~2. Spray with an EPA-registered disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal; and~~
- ~~3. Wipe dry with a clean towel.~~

~~34-021.03 Footbaths/footspas are disinfected by the following procedures:~~

- ~~1. Between each customer:
 - ~~a. Drain all water;~~
 - ~~b. Remove all foreign matter;~~
 - ~~c. Spray with an EPA-registered disinfectant, proven effective against HIV-1, Hepatitis B, or Tuberculocidal; and~~
 - ~~d. Wipe dry with a clean towel.~~~~
- ~~2. At the end of the day:
 - ~~a. Remove the screen;~~
 - ~~b. Clean out all foreign matter trapped behind the screen of each footbath/footspa;~~
 - ~~c. Spray the screen and the area behind the screen with an EPA-~~~~

- ~~registered disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal; and~~
d. ~~Wipe dry the screen and area behind the screen with a clean towel.~~

~~34-021.04 Paraffin wax used by one client can not be re-melted and used by another client.~~

~~34-022 Infectious Disease: The owner must observe the following requirements to prevent the transmission of infectious or communicable diseases:~~

- ~~1. No person afflicted with an infectious or communicable disease which may be transmitted during the performance of the acts of nail technology is permitted to work or train in an establishment.~~
- ~~2. No client known to have an any infectious or communicable disease which may be transmitted during the performance of the acts of nail technology is permitted to receive nail technology services.~~

~~34-023 Blood Spill Procedures: The owner must ensure that the following occurs when a client or the licensee/student is injured during a service and a blood spill occurs. Cosmetologists, nail technicians, and students must comply with the following requirements.~~

- ~~1. Procedure for client injury:
 - a. Stop service;
 - b. Scrub licensee/student hands with soap and water;
 - c. Glove hands of licensee/student;
 - d. Change gloves upon contamination, tearing, or penetration;
 - e. Clean client's injured area, as necessary;
 - f. Apply antiseptic and/or styptic, as necessary;
 - g. Do not use styptic pencils;
 - h. Cover with a band aid or liquid sealant;
 - i. Clean blood spill area;
 - j. Place all disposable contaminated objects and gloves in a plastic bag;
 - k. Dispose of plastic bag in covered waste receptacle;
 - l. Clean hands with liquid soap and water;
 - m. Clean non-disposable tools with a disinfectant; and
 - n. Return to service.~~
- ~~2. Procedure for cosmetologist, nail technician, or student injury:
 - a. Stop service;
 - b. Clean injured area with soap and water;
 - c. Apply antiseptic and/or styptic as necessary;
 - d. Do not use styptic pencils;
 - e. Cover with a band aid or liquid sealant;
 - f. Clean blood spill area, as necessary;
 - g. Place all disposable contaminated objects and gloves in a plastic bag;
 - h. Dispose of plastic bag in covered waste receptacle;
 - i. Clean hands with liquid soap and water;
 - j. Clean non-disposable tools with a disinfectant; and
 - k. Return to service.~~

~~34-024 Home Services Kits: The owner must ensure that the use of home service kits meets the following requirements. Cosmetologists and nail technicians must comply with the following requirements:~~

- ~~1. Home service kits are available for inspection at the salon or at the home of the client receiving services;~~
- ~~2. The kit and all products within the kit are maintained in a sanitary condition;~~
- ~~3. The kit contains items required for the service being provided;~~
- ~~4. Only clean linens are in the kit;~~
- ~~5. Towels stored in the kit are in a clean, dust-proof, and waterproof container;~~
- ~~6. Used/soiled linens are placed in a leak-proof container for transport to the laundering site;~~
- ~~7. Products transported in home services kits are not exposed to excessive cold or heat; and~~
- ~~8. The cosmetologist or nail technician uses the disinfectant methods described in 172 NAC 34-019 following the service.~~

~~34-025 Student Kits: The owner must ensure that student kit items which have been used by a student who has ceased training are not reissued to another student.~~

~~34-026 Implements, Supplies, Products, or Activities That Are Not Allowed~~

~~34-026.01 The owner must ensure that none of the following are present in the establishment. Cosmetologist, nail technicians, and students must not use or bring into the establishment any of the following:~~

- ~~1. Credo blades and other implements used for cutting nail beds, corns, or calluses;~~
- ~~2. Chamois buffer;~~
- ~~3. Products containing MMA;~~
- ~~4. Sable or fabric nail dusters;~~
- ~~5. Styptic pencils;~~
- ~~6. Coarse nail drill bands; and~~
- ~~7. Cabinet fumigants.~~

~~34-026.02 While in the establishment, the owner, cosmetologists, nail technicians, and students must not engage in or allow any other person, including clients, to engage in any of the following activities:~~

- ~~1. Smoking on the clinic floor;~~
- ~~2. Consuming food in any area where nail services are being taught or performed, except that clients may be allowed to consume food;~~
- ~~3. Storing food in the same area where chemical supplies are used or stored;
or~~
- ~~4. Using, consuming, serving, or in any manner possessing or distributing intoxicating beverages or controlled substances upon its premises during the hours the establishment is open to the public or students and/or while any services are being performed.~~

~~34-026.03~~ The owner, cosmetologists, nail technicians, and students must not bring or permit animals, including pets, in the establishment except for the following:

- ~~1. Animals used as guides for visually impaired or hearing impaired persons, or service dogs for physically disabled; or~~
- ~~2. Fish in covered aquariums.~~

~~34-027 Compliance:~~ The owner must ensure that each manager, licensee, and student present in the establishment understands his/her personal responsibility to observe these rules of sanitation and safety at all times that the establishment is open for business to students or the public.

Approved by the Attorney General: ~~January 11, 2005~~

Approved by the Governor: ~~February 4, 2005~~

Filed with the Secretary of State: ~~February 7, 2005~~

Effective Date: ~~February 12, 2005~~

TITLE 172 - PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 43 - (Repealed)

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 34 SANITATION AND SAFETY RELATING TO COSMETOLOGY, ESTHETIC,
AND NAIL TECHNOLOGY SERVICES

001. SCOPE AND AUTHORITY. These regulations apply to the safe practice of cosmetology, esthetics, and nail technology by cosmetologists, nail technicians, and students in cosmetology, esthetic, and nail technology salons and schools as defined in the Cosmetology, Electrology, Esthetics, Nail Technology and Body Art Practice Act.

002. DEFINITIONS. Definitions set out in the Cosmetology, Electrology, Esthetics, Nail Technology and Body Art Practice Act and the following apply to this chapter.

002.01 CLOSED COVERED RECEPTACLE, CONTAINER, BOTTLE, AND DRAWER. Fits tightly with a lid, door, or shutting of a drawer, and may have vents.

002.02 CONTACT TIME. The amount of moist contact time required for a disinfectant to be effective against the pathogens on the label.

002.03 DISINFECT. The process of making a non-porous item safe for use. Requires the use of a chemical intended to kill bacteria, viruses, or fungus.

002.04 DISINFECTANT. A United States Environmental Protection Agency (EPA) registered bactericidal, virucidal, and fungicidal agent that is approved for use in hospital settings, following label instructions for dilution ratio and contact time.

002.05 DISINFECTION. To remove agents of infection, disease, or infestation by insects or pests, and soil, dust, or foreign material.

002.06 DISINFECTION CONTAINER. A closed receptacle which holds the disinfectant solution.

002.07 DISPOSABLE SUPPLIES. Tools that cannot be disinfected, such as cotton balls or pads, orangewood sticks, card board files, pumice stones, end papers, foil, frost caps, disposable capes, neck strips, single use cosmetic applicators, sponges, or other similar items.

002.08 ELECTRICAL APPLIANCES. Drills or electric files, airbrush machines, polish dryers, gel lights, footbaths or foot spas, paraffin wax warmers, blow dryers, wax warmers, thermal curling irons, microdermabrasion machine, facial machines, and similar portable electric powered appliances.

002.09 ENCLOSED CONTAINER, DRAWER, AND CABINET. Fits tightly with a lid, door, or shutting of a drawer and does not have vents.

002.10 EQUIPMENT OR FURNITURE. Those items needed to operate a salon or a school usually considered stationary, such as, waiting chairs, client chairs, cabinets, sinks, nail technology tables and stools, stations, and facial beds.

002.11 IMPLEMENTS OR TOOLS. Nail files, nail nippers, cuticle pushers, nail clippers, manicure brushes, nail tip cutters, product brushes, nail drill bits, shears, combs, brushes, rollers, perm rods, bobby pins, clippers, tweezers, clippers, razors, comedone extractors, or other similar items.

002.12 PIPED FOOTBATH OR PIPED FOOT SPA. The water in the basin is re-circulated through a plumbing system by water.

002.13 PIPELESS FOOTBATH OR PIPELESS FOOT SPA. The water in the basin is circulated by air.

002.14 STATION. A nail table, client chair, and licensee chair.

002.15 TRASH CONTAINER. A waste receptacle with solid sides, a lid, and a plastic liner.

002.16 WASHABLE IMPLEMENT OR TOOL. A tool that is sanitizable or disinfectable, such as one made of mylar, plastic, metal, or cloth.

003. EMPLOYEE IDENTIFICATION. Each employee providing services must have a government-issued or state-issued photo identification card or document available for viewing by a Department inspector.

004. HAND CLEANLINESS. Licensees, students, and clients must comply with the following cleanliness procedures.

004.01 LICENSEE AND STUDENT HAND CLEANLINESS. Every licensee and student must:

- (A) Wash his or her hands thoroughly with liquid soap and water or an instant hand sanitizer before serving each client.
- (B) If wearing gloves during a service, they must be free of tears or holes and the gloves must be changed upon contamination.

004.02 CLIENT HAND CLEANLINESS. If the client is receiving nail technology services, every client must thoroughly wash his or her hands with liquid soap and water or an instant hand sanitizer before receiving services.

005. PHYSICAL STRUCTURE. The salon or school must be well lighted, well ventilated and kept

in a clean, orderly, sanitary condition at all times.

006. WATER. The salon or school must have hot and cold running water.

007. SAFETY. The salon or school must be maintained in a safe and sanitary condition as follows:

- (A) Floors, floor coverings, walls, woodwork, ceilings, furniture, fixtures, and equipment must be clean and in good repair.
- (B) Floors must be free of unsafe objects and slippery or uneven surfaces.
- (C) Doors, stairways, passageways, aisles, or other means of exit must provide safe and adequate access.
- (D) Electrical appliances must be clean and have no worn or bare wiring.
- (E) Water or product spills on the floor must be removed immediately and the floor dried.

008. RESTROOM FACILITIES. Restrooms must be clean and sanitary and comply with the following requirements:

- (A) The toilets and sinks must be clean and operational.
- (B) The following must be available at all times:
 - (i) Suitable holders for toilet paper.
 - (ii) An adequate supply of toilet paper.
 - (iii) A clean waste receptacle.
 - (iv) A sink with hot and cold running water.
 - (v) Liquid soap.
 - (vi) Single-use disposable towels in an appropriate clean holder or an electric hand dryer.

009. TABLES AND CHAIRS. All tables and chairs must be in good repair and in a sanitary condition at all times.

- (A) All table tops must be disinfected immediately following each client.
- (B) All nail stations and client chairs must be disinfected at the end of the day.

010. LAUNDRY FACILITIES. If the establishment has a laundry facility, it must:

- (A) Be clean, including the washer and dryer.
- (B) Have a receptacle to store soiled towels.

011. STORAGE AND USE OF SUPPLIES, IMPLEMENTS, TOWELS, LINENS, PRODUCTS, EQUIPMENT, AND MATERIALS. The storage and use of various chemicals, supplies, implements, and products used in salons and schools must meet the following requirements:

011.01 CHEMICALS. The storage of chemicals must comply with the following requirements:

- (A) Flammable and combustible chemicals must be stored away from potential sources of ignition such as an open flame or electrical devices.
- (B) All chemicals must be stored in closed bottles or containers and properly labeled.

011.02 STORAGE UNITS. Cabinets, drawers, and containers used for storage of implements and towels must be clean.

011.03 SUPPLIES AND IMPLEMENTS. The following requirements for supplies and implements apply:

- (A) Unused supplies must be stored in a clean, closed container or drawer.

- (B) Used or soiled disposable supplies must be discarded immediately in a clean, closed waste receptacle with a plastic liner.
- (C) Implements that have been used on a client or soiled in any manner must be placed in a properly labeled covered receptacle until disinfected as described in 172 Nebraska Administrative Code (NAC) 34-014.
- (D) Disinfected implements must be stored in a clean closed container or drawer until used.
- (E) Used product application brushes must be cleaned and stored in a clean closed container after each client.
- (F) Tools and implements must not be placed in or on clothes, aprons, pockets, bags, or holsters, or worn by the licensee, and must not come into contact with surfaces that have not been disinfected as described in 172 NAC 34-014.

011.04 TOWELS AND LINENS. The following requirements for towels and linens apply:

- (A) Used or soiled cloth towels and linens must not be used again until laundered and dried.
- (B) Containers for used linens must be covered and have vented sides to reduce the growth of pathogens. Containers used for soiled linens must be disinfected weekly with disinfectant sprays or wipes in accordance with the directions on the manufacturer's label.
- (C) All clean cloth towels and linens must be stored in a clean, covered container, drawer, or cabinet until used.
- (D) Disposable towels must be discarded in a covered waste receptacle immediately following each service.
- (E) All towels used in towel warmers must be washed and dried at end of the day and stored overnight in a clean, covered, closed container.
- (F) Salons and schools using hot steamed towels for services must meet these requirements:
 - (i) Towel warmers must be disinfected daily with a disinfectant wipe or spray;
 - (ii) Towels used in a warmer must be washed with detergent and bleach and dried using a hot dryer setting.
 - (iii) Licensees preparing towels for the warmers must first wash their hands or wear gloves.
 - (iv) Wet towels used in services must be prepared fresh each day. At the end of the day, unused steamed towels must be removed and laundered.
- (G) Towel warmers must be left open overnight to allow unit to dry completely.

011.05. PRODUCTS. Products used in salons and schools must meet the following requirements:

- (A) No product containing methacrylate monomers may be used in the salon or school.
- (B) Artificial nails or nail enhancements must be removed in accordance with manufacturer's directions.
- (C) All liquids, cosmetics, creams, gels, pastes, powders, and other products must be kept in clean, closed containers.
- (D) Original product bottles and containers must have an original manufacturer label.
- (E) When only a portion of the product, except for nail polish, is to be used on a client, the product must be removed from the container by a spatula, scoop, spoon, or dropper so that the product does not come in direct contact with a client or licensee

and the ensure the remaining product is not contaminated.

- (F) If a product is poured into another container, such as a shaker, dispenser pump container, or spray container, the container must be labeled to identify the product. Dappen or acrylic liquid dishes do not need labeling.

011.06. EQUIPMENT AND MATERIALS. Equipment and materials must meet the following requirements:

- (A) No nail dusters or hand dusters must be used.
- (B) Nail buffers can be used if properly disinfected between clients.
- (C) Manicure brushes which are made of plastic or nylon, must be disinfected after each use.
- (D) Client hand supports must have plastic or vinyl coverings.
- (E) A disinfection container must be deep enough to fully immerse implements and tools and must be available in the salon or school for disinfecting implements and tools.
- (F) If providing nail technology services, a trash container must be located at each station.
- (G) Dry use implements made of materials that melt when wet, such as wood or cardboard and nail drill disposable bands must be discarded in a closed waste receptacle immediately after use.
- (H) When providing cosmetology or esthetic services, disinfected brushes, such as plastic, nylon, sable, or natural hair may be used, provided they are sanitized between clients in accordance with the manufacturer's instructions.
- (I) When providing cosmetology services, neck strips or a clean towel must be used under a cape in order to prevent the cape from coming into contact with the skin or hair of each client. A sanitized or disposable cape, 1 per client, may be used in lieu of neck strips or towels.
- (J) Supplies and implements which come in direct contact with a client and cannot be disinfected, such as cotton pads, cotton balls, paper neck strips, orangewood sticks, pads, "Q-tips", sponges, and other similar items, must be disposed of in a covered waste receptacle, with a plastic liner, immediately after use.
- (K) A first aid kit must be available in the salon or school.

012. SAFETY DATA SHEET (SDS). Safety Data Sheets for every product pertaining to cosmetology and esthetics client services, and for every disinfectant, must be accessible at all times to all employees either by paper or electronically.

013. DISINFECTANT MIXING, DISPOSAL, AND LABELING. The mixing, disposal, and labeling of disinfectants must comply with the following requirements:

- (A) All disinfectants must be mixed as directed on the manufacturer's label.
- (B) If the disinfectant becomes contaminated or cloudy, it must be discarded immediately.
- (C) All disinfectant containers must be covered at all times and large enough to completely cover all implements and tools, including the handle, that must be placed in the container.
- (D) A manufacturer's label for all disinfectant concentrate must be available at all times. If a concentrate bottle is emptied, it must remain available until a new bottle is obtained.
- (E) When mixed disinfectant concentrate is placed in a secondary container such as a spray bottle, tub or jar, that container must be labeled to indicate what chemical is in the container.

- (F) Disinfectants must be disposed of in accordance with all local, state and federal standards.

014. METHODS OF DISINFECTION. Salons and schools must comply with the following disinfection methods:

014.01 IMMERSION. The process for disinfecting by immersion is as follows:

- (A) Remove foreign matter.
- (B) Wash hands with liquid soap and water or an instant hand sanitizer.
- (C) Wash implements with hot water and soap.
- (D) Rinse implements after washing.
- (E) Place the implement in a disinfectant.
- (F) The disinfectant solution must be deep enough to completely cover implements.
- (G) The implements must stay in the disinfectant solution for the full contact time as listed on the manufacturer's label.
- (H) All disinfectants used for immersion must be disposed of at the end of the day and fresh disinfectant made at the beginning of each work day. In addition, if the disinfectant becomes contaminated or cloudy, it must be changed immediately.
- (I) Before removing the disinfected implements, wash hands with liquid soap and water or an instant hand sanitizer.
- (J) Air-dry on a sanitary surface for at least 10 minutes, dry with a clean towel, or with an electric air sanitizer.
- (K) Store in a clean enclosed cabinet or covered container reserved for clean implements.

014.02 SPRAY. The process for disinfecting by spray is as follows:

- (A) Remove foreign matter.
- (B) Wash hands with liquid soap and water or an instant hand sanitizer.
- (C) Spray the implement until it is totally saturated with a disinfectant.
- (D) The disinfectant must remain in full contact with the implement as listed on the manufacturer's label.

014.03 DISINFECTANT WIPES. Follow steps (A) through (D) and (J) and (K) in 172 NAC 34-014.01 when using a disinfectant wipe. Wipe surfaces and ensure that all surfaces remain visibly moist for the contact time listed on the label. When using a wipe to clean and a second wipe to disinfect, steps (C) and (D) are not required.

014.04 METAL IMPLEMENTS. All metal implements must be immersed in a disinfectant following the procedures in 172 NAC 34-014.01 except that nail tip cutters may be sprayed with a disinfectant.

014.05 AUTOCLAVE. Autoclave is an acceptable method of disinfection and must comply with the following requirements:

- (A) Autoclave implements in accordance with the manufacturer's instructions.
- (B) Autoclaves must be cleaned and serviced at the frequency recommended by the manufacturer.

014.06 ELECTRICAL APPLIANCES. Electrical appliances such as drills, electric files,

airbrush machines, polish dryers, gel lights, footbaths, foot spas, paraffin wax warmers, clippers, blow dryers, thermal curling irons, microdermabrasion machines, facial machines, and similar portable electric powered appliances must be kept clean at all times. The disinfection process is as follows:

- (A) Remove all foreign matter.
- (B) Spray with a disinfectant or use a disinfectant wipe.
- (C) Wipe dry with a clean towel.

014.07 PIPED AND PIPELESS FOOTBATHS AND FOOT SPAS. Salons and schools must use the following disinfection process for footbaths and foot spas:

04.07(A) AFTER PEDICURES. After every pedicure using piped and pipeless footbaths and foot spas, the following process must be followed:

- (i) Drain water from the basin.
- (ii) Remove all debris from the basin and components, as well as the top and bottom of the footplate, knobs and screen. Use low-sudsing soap or detergent and a non-abrasive brush. Remove all visible residue from the inside of the basin and all other components.
- (iii) Rinse the basin and components with clean water using the sprayer.
- (iv) For pipeless footbaths and foot spas, disinfect all components, screen, surfaces and basin with a disinfectant. Let stand for at least 10 minutes following the manufacturer's recommendations.
- (v) For piped footbaths, foot spas, or portable circulating footbaths, fill the basin with water and a disinfectant and let circulate. The disinfection solution must go everywhere the water was and stay there for at least 10 minutes.
- (vi) Rinse the basin and components again with clean water.
- (vii) Thoroughly dry the basin and all other components with a clean towel.

014.07(B) AFTER PEDICURES USING A DISPOSABLE LINER. After every pedicure when using a disposable liner, the following process must be followed:

- (i) Replace the liner with a new liner for each client.
- (ii) Any time the base of the footbath or foot spa becomes contaminated, the liner must be replaced immediately and the footbath or foot spa must be disinfected.

014.07(C) AT THE END OF THE WORK DAY FOR PIPED FOOTBATHS AND FOOT SPAS. At the end of the work day, the following process must be followed:

- (i) Drain water from the basin.
- (ii) Remove all debris from the basin and components, as well as the top and bottom of the footplate, knobs and screen. Use low-sudsing soap or detergent and a non-abrasive brush. Remove all visible residue from the inside of the basin and all other components.
- (iii) Fill the basin with water and a disinfectant and let run in accordance with manufacturer's disinfecting procedures. Let the water and disinfectant sit in the tub for 6-10 hours, then drain the basin.
- (iv) Fill the basin with clean water and circulate for 5 minutes and drain the basin.
- (v) Rinse the basin and components with clean water using the sprayer and dry with a clean towel.

014.08 UNACCEPTABLE DISINFECTION METHODS. Ultraviolet light and using isopropyl alcohol or hydrogen peroxide are not acceptable disinfection methods.

015. USING PARAFFIN WAX ON A CLIENT'S HANDS OR FEET. When using paraffin wax on a client's hands or feet, the following procedures must be followed:

- (A) Paraffin wax used on one client must not be re-melted and used on another client.
- (B) Paraffin wax must be removed from the machine with a clean, single-use applicator.
- (C) The paraffin wax machine must be kept clean.
- (D) Paraffin wax must be portioned out for each client in a bag or other container, or dispensed in a manner that prevents contamination of the unused supply. All portions used on a client must be disposed of immediately following use.

016. WAX. When using wax on a client during a cosmetology or esthetic service, the following procedures must be followed:

- (A) Wax used on one client must not be re-melted and used on another client.
- (B) Wax must be removed from the machine with a clean single-use applicator.
- (C) The wax machine must be kept clean.

017. BLOOD SPILL PROCEDURES. When a client, licensee, or student injury occurs, the following procedures must be followed:

017.01 CLIENT INJURY. The following process must be followed:

- (A) Stop service.
- (B) Scrub licensee or student hands with liquid soap and water.
- (C) Glove hands of licensee or student.
- (D) Change gloves upon contamination, tearing or penetration.
- (E) Clean client's injured area, as necessary.
- (F) Apply antiseptic or styptic powder or liquid, as necessary; do not use styptic pencils.
- (G) Cover with a band aid or liquid sealant.
- (H) Clean blood spill area.
- (I) Place all disposable contaminated objects and gloves in a plastic bag.
- (J) Dispose of plastic bag in covered waste receptacle.
- (K) Clean hands with liquid soap and water.
- (L) Clean non-disposable tools with a disinfectant.
- (M) Return to service.

017.02 LICENSEE OR STUDENT INJURY. The following process must be followed:

- (A) Stop service.
- (B) Clean injured area with liquid soap and water.
- (C) Apply antiseptic or styptic powder or liquid as necessary; do not use styptic pencils.
- (D) Cover with a band aid or liquid sealant.
- (E) Clean blood spill area, as necessary.
- (F) Place all disposable contaminated objects and gloves, if worn, in a plastic bag.
- (G) Dispose of plastic bag in covered waste receptacle.
- (H) Clean hands with liquid soap and water.
- (I) Clean non-disposable tools with a disinfectant.
- (J) Return to service.

018. HOME SERVICES KITS. The following applies to home service kits:

- (A) Home service kits must be available for inspection at the salon or at the home of the client receiving services.
- (B) The kit and all products in the kit must be maintained in a sanitary condition.
- (C) The kit must contain items required for the service being provided.
- (D) Towels or linens stored in the kit must be in a clean, dust-proof, and waterproof container.
- (E) Used and soiled towels or linens must be placed in a leak-proof container for transport to the laundering site.
- (F) Licensees must use the disinfectant methods described in 172 NAC 34-014 following the service.

019. PROHIBITED IMPLEMENTS, SUPPLIES, PRODUCTS, AND ACTIVITIES. The following implements, supplies, products, and activities are prohibited in salons and schools:

- (A) Credo blades and other implements used for cutting nail beds, corns, or calluses.
- (B) Products containing methacrylate monomers.
- (C) Nail dusters.
- (D) Styptic pencils.
- (E) Coarse nail drill bands.
- (F) Cabinet fumigants.
- (G) Nail services using fish or other living creatures.
- (H) Using individual client implement containers.
- (I) Smoking or vaping on the clinic floor, or any area where salon products or chemical supplies are used or stored.
- (J) Licensees using or consuming intoxicating beverages.
- (K) Unlicensed persons, or credential holders with an expired or inactive license, who are providing cosmetology, esthetic, or nail technology services.